

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MIKE SETTLE,)
Petitioner,)
v.) No.: 3:15-CV-470-TAV-HBG
BUREAU OF PRISONS and)
WARDEN HAMBY,)
Respondents.)

MEMORANDUM & ORDER

This is a pro se state prisoner's petition for a writ of habeas corpus filed under 28 U.S.C. § 2241 [Doc. 2]. The Respondents are the Bureau of Prisons and Warden Hamby of the Morgan County Correctional Complex, where Petitioner is incarcerated [*Id.*]. Petitioner's application for leave to proceed *in forma pauperis*, which reflects that he has a zero ("0") sum to his credit in his inmate trust account, is **GRANTED** [Doc. 1]. However, no answer will be required, and this petition will be **DISMISSED**.

This pleading is a carbon copy of a petition for a writ of habeas corpus under 28 U.S.C. § 2241 filed previously in this Court. *See Settle v. Bureau of Prisons*, No. 3:15-CV-385-TAV-HBG (E.D. Tenn. 2015). Faced with a duplicative suit, such as this one, a federal court may exercise its discretion to stay or dismiss the suit before it, allow both federal cases to proceed, or enjoin the parties from proceeding in the other suit. *See Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997).

With respect to duplicative suits, the Sixth Circuit has stated

"[S]imple dismissal of the second suit is [a] common disposition because plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the

same time.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir. 2000); *see also Missouri v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 953-54 (8th Cir. 2001) (joining other courts that have held a district court may dismiss one of two identical pending actions).

Twaddle v. Diem, 200 F. App’x 435, 438 (6th Cir. 2006) (alterations in original).

Accordingly, this Court will exercise its discretion and will **DISMISS** this § 2241 petition **without prejudice**. *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000) (“Federal courts do, however, retain broad powers to prevent duplicative or unnecessary litigation.”); *Christian v. Trombley*, No. 2:07-10900, 2007 WL 1266167, at *1 (E.D. Mich. Apr. 30, 2007) (dismissing a duplicate habeas corpus petition without prejudice).

A certificate of appealability will not issue because Petitioner has not demonstrated “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 478.

Finally, the Court **CERTIFIES** that any appeal in this matter would not be taken in good faith, 28 U.S.C. § 1915(a)(3), and leave to appeal *in forma pauperis* is **DENIED**. If Petitioner files a notice of appeal, he must pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* and a supporting affidavit in the Sixth Circuit Court of Appeals, within 30 days of the date of filing of the notice. *See Fed. R. App. P. 24(a)(5)*.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE